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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,954	02/04/2002	David Frederick Lewin	24895B	6057

22889 7590 06/10/2005

OWENS CORNING  
2790 COLUMBUS ROAD  
GRANVILLE, OH 43023

EXAMINER
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FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/066,954

Applicant(s)

LEWIN ET AL.

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 15-17 are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Ingemansson et al (4,569,471). In the reference of Ingemansson et al, glass strands are fed into a muffler outer cylinder 14. As the strands are fed, they are blown with a nozzle 9, causing the threads to blow apart so as to form a wool-like texture (col. 3, lines 40-44), defining fiberglass wool. Accordingly, the filled strand is texturized. After the glass strands have been deposited into the outer cylinder, a cover plate is temporarily placed over the opening of the cylinder (col. 3, line 67 through col. 4, line 7). Figures 1 and 3 show that the "wool" includes looped/coiled fibers. The length of the outer cylinder 14 becomes filled with the coiled strand (Fig. 1). Inasmuch as the length of the muffler is a much greater dimension than a strand loop/coil, the deposit of the strand will be in multiple layers, as shown in Figures 1 and 3.

The examiner asserts that the outer cylinder 14 of the muffler constitutes a container since it will contain the strand. The examiner further asserts that the cover plate described constitutes a removable cover

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since it is temporarily placed and since its placement will prevent loss of strand (due to expansion).

Regarding the limitation which calls for the glass strand to be withdrawn for subsequent use, the strand in the muffler of Ingemansson et al is inherently capable of being withdrawn from the muffler since there is nothing disclosed which permanently fastens the strand in the muffler and since the cover is temporary. Moreover, the strand is inherently capable being used in any manner practical if it is withdrawn from the container. This capability meets the intended use limitation, "for subsequent use."

Moreover, the reference of Ingemansson et al discloses that the fiberglass wool may be blown into another kind of container, such as a package. See column 4, lines 35-39.

Regarding the limitation, added by the latest amendment, calling for the density of the strand to be in the range 5 to 10 lbs/ft<sup>3</sup>, this range has not been shown by Applicant to be critical, such that within the range a function is achieved which is otherwise not achieved outside of the range. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Inasmuch as the muffler or other container or package is disclosed by Ingemansson et al as containing the fiberglass wool/texturized strand, the strand will inherently include a density -- the general condition of Applicant's limitation. Accordingly, merely discovering a workable range for a particular density would have been within an ordinary skill in the art; it therefore would have been obvious to have provided the strand of Ingemansson et al with any particular density, including that claimed by Applicant, absent unexpected result.

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3) Claims 15-17 are also finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Ingemansson et al (4,569,471) as applied to claims 15-17 above and further in view of Mattis (3,968,877).

As explained above, the reference of Ingemansson et al also discloses that by using the apparatus (which texturizes and coils the strand), the glass "wool" (blown apart strand) may be blown directly into a package instead of a muffler, for the mere production of the wool (col. 4, lines 35-39). Although the reference of Ingemansson et al may not disclose a package closure, the reference of Mattis et al suggests, at the flaps of Figures 2 and 3 and at the abstract of the reference, that a container for strand may be provided with a closure, which is closed by gummed tape, for closing the container after filling, to provide a suitable package for the purpose of storing and transporting the strand. The closure, among other things, would apparently prevent inadvertent removal of the strand from the package. The closure is inherently removable by cutting the tape so as to open the flaps. Accordingly, it would have been obvious in view of Mattis to have provided the package of Ingemansson et al with a closure in the form of closure flaps, making the package suitable for storage and transportation, without inadvertent removal of the strand.

4) Claim 18 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the Ingemansson et al in view of Mattis as applied to claim 15 above, and further in view of Galanes (3,670,949). The reference of Galanes at column 4, lines 55-64 suggests that corrugated cardboard is a suitable material in cartons for giving the walls of the cartons strength. Accordingly, it would have been obvious in view of Galanes to have made the

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carton of Ingemansson et al, as modified above, of corrugated cardboard to give the carton strength.

5) Applicant's arguments filed 26 January 2005 have been fully considered but they are not persuasive. Applicant argues that fiberglass wool has in the past been known to have a density of 3.25 lbs per cu., remarkably different from Applicant's density. But this is indicated for glass wool providing thermal properties, not for glass wool providing noise dampening properties or for glass wool that is shipped. Accordingly, Applicant's argument is unpersuasive. Moreover, even if Applicant had shown a different density in glass wool packaging, this would not have indicated patentability absent a factual showing that densities in packaging outside of the range claimed by Applicant failed to demonstrate a property which is evident from Applicant's claimed range of density. In other words, Applicant has failed to factually show criticality for the range of density which is claimed. The general condition, density, is inherently existent in the prior art reference of Ingemansson et al with respect to packages. Merely discovering any workable range for density would therefore have been within the ordinary skill in the art.

6) Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION

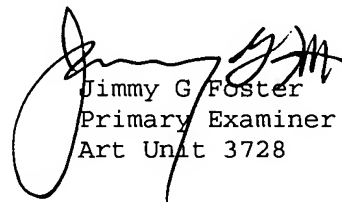
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AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Jimmy G Foster  
Primary Examiner  
Art Unit 3728

JGF  
9 June 2005